

Date: January 4, 2006

Title: **Starting a New Hospice—Forms and Regulations**

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The information included in this paper is provided as general information only. This information should not be considered complete or dispositive guidance for legal or regulatory compliance. The specific application of laws and regulations to an organization requires a careful consideration of all the relevant facts and circumstances and may require assistance of competent legal counsel.

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**Question:**

How do I find state and federal law and regulation resources and forms for starting up a hospice?

**Answer:**

Effective January 1, 1991 hospices began their own licensure process separate from home health agencies. Prior to this date, all hospices were licensed as home health agencies, whether they were part of a home health agency or separate and unto themselves. All hospices that were licensed as home health agencies or home health agencies also operating hospices were “grandfathered in” and still are licensed as hospices. All entities wishing to have a hospice agency from January 1, 1991 forward are required to get licensed as a hospice.

California hospices are governed by state standards, and federal law and regulation, Medicare guidelines, Medi-Cal guidelines, UGS, etc. To start up a hospice agency, an agency needs to write to the state district office for a hospice application and comply with the state standards. If the agency wants to provide services to Medicare or Medi-Cal beneficiaries, they need to comply with the Federal CoPs. Therefore, the initial licensure survey is based on the hospice standards and the subsequent survey by L&C is on the CoPs.

**State Standards**

There are no state regulations, but there are state standards that must be followed for licensure, per Health and Safety Code Section 1749 (c), which states, The services required to be provided pursuant to subdivision (b) shall be provided in compliance with the "Standards for Quality Hospice Care, 2003," as available from the California Hospice and Palliative Care Association, until the state department adopts regulations establishing alternative standards pursuant to subdivision (e). Currently, the latest standards are January 2003.

**Federal Federal Regulations, Medicare Conditions of Participation:**

Title 42, Part 418

[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/42cfr418\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/42cfr418_05.html)

**Federal Law: (Scroll down until you get to Hospice)**

[http://www.ssa.gov/OP\\_Home/ssact/title18/1861.htm](http://www.ssa.gov/OP_Home/ssact/title18/1861.htm)

**State Law, Health and Safety Code Section, 1745-1759**

CHAPTER 8.5. CALIFORNIA HOSPICE LICENSURE ACT OF 1990

Article 1. General – Sections 1745-1746

<http://leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=01001-02000&file=1745-1746>

Article 2. Licensure –Sections 1747-1751

<http://leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=01001-02000&file=1747-1751>

### Article 3. Enforcement

<http://leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=01001-02000&file=1752-1759>

### State Operations Manual: Appendix M: Guidance to Surveyors of Hospice:

[http://www.cms.hhs.gov/manuals/downloads/som107ap\\_m\\_hospice.pdf](http://www.cms.hhs.gov/manuals/downloads/som107ap_m_hospice.pdf)

### Other CMS Hospice Resources:

<http://www.cms.hhs.gov/center/hospice.asp>

### Forms to fill out to become a Hospice Agency:

There are 13 forms that you need to fill out: (We recommend that you keep a copy of all information you mail to DHS). Since there are 13 forms that you need to fill out, we also recommend that you write your local DHS District Licensing and Certification Office to ask for an application.

### Forms:

- HS 200: Application for Facility License
- HS 215: Applicant Information
- HS 308: Designation of Administrative REsponsibility
- HS 309: Administrative Organization
- HSHS 690: Assurance of Compliance
- MC 803: Medi-Cal Provider Data Form
- CMS 1513: Ownership and Control Interest Disclosure Statement
- CMS 1561: Health Insurance Benefits Agreement (two copies)
- CMS 2572\*: Statement of Financial Solvency
- DHS 1051: Civil Rights Compliance Review
- HS 413\*: Intermediary Preference
- *CMS 417: Medicare Certification Form – Specific to Hospic\*\*e*
- *HS 609 – Bed or Service Request (If you want a CHLF) – Specific to Hospice\*\**
- *Attachment B (Effective date to start agency), C (Civil Rights form), and E (instructions on OBRA 90\*\*)*
- *HIV policy developed and available\*\**

\* Not required for Medi-Cal only providers.

\*\**These forms are identical to home health agencies except the CMS 417 (replaces the CMS 1572 and the HS 609)*

Additionally, the agency will have to submit the 855A form to their appropriate fiscal intermediary, which will have to sign off on the agency prior to the Medicare certification survey taking place.

### Time Frame

**Be aware that it can take up to two years at this time (August 2007) for providers to get their initial license and their initial certification—particularly in Southern California.** Agencies may want to look into professional certification. There are three accrediting organizations available for HHAs that do not wish to use the state's services. The Accreditation Organizations are expensive, but in many cases they can complete the services more quickly than the state can. You would have to decide what is best for the business. Here is the contact information for

the three accrediting organizations:

*Joint Commission on the Accreditation of Health Organizations (JCAHO)*

(630) 792-5000 •

One Renaissance Blvd.

Oakbrook Terrace, IL 60181

[www.jchaco.org](http://www.jchaco.org)

*Community Health Accreditation Program (CHAP)*

(800) 656-9656 • (202) 862-3413 • (202) 862-3419 (fax)

1300 19th St NW Ste 150

Washington, DC 20036-1609

[www.chapinc.org](http://www.chapinc.org)

*Accreditation Commission for Health Care (ACHC)*

(919) 785-1214 •

5816 Creedmoor Rd, Ste #201

Releigh, NC 27612

[www.achc.org](http://www.achc.org)

Currently, accreditation organizations are only conducting certification surveys for Medicare and Medi-Cal accreditation. California does not, at this time, allow these entities to conduct initial surveys for licensing.

(<http://www.chapinc.org/>) ACHC would become the third accreditation body. Currently, accreditation organizations are only conducting certification surveys for Medicare and Medi-Cal accreditation. California does not, at this time, allow these entities to conduct initial surveys for licensing. With the backlog of licensure applications, ACHC could potentially reduce the time necessary for California providers to get their initial Medicare/Medi-Cal certification surveys.

There may soon be a third deemed accreditor available to home health agencies. The Raleigh, NC-based Accreditation Commission for Health Care (ACHC) is requesting deemed status from Medicare for home health agencies. In order to participate in the Medicare program, HHAs must go through a certification process through the state. However, there are alternatives to being certified by state agencies. CMS recognizes accrediting bodies to do this certification process in lieu of the state agencies. CMS requested public comments until October 24. For more information, go to:

<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-18922.pdf>

As for initial licensure, the state is required to do this and does not contract with any accreditation body to do the initial license. However, there will be a movement in 2006 to allow one or all three of the accrediting bodies to conduct the initial licensure survey as well as the certification survey.